

IN THE UNITED STATES MIDDLE  
OF ALABAMA

Courtney Boyd  
Plaintiff

2007 JUN 20 A 9:29

VS.

J. W. Solomon  
Defendant

Case NO: 2:07-CV-403-MEF  
U.S. DISTRICT COURT  
MIDDLE DISTRICT / ALA

Objection TO THE Magistrate

Recommendation entered June 11, 2007

Comes Now, The plaintiff, Courtney Boyd, moves into this Honorable Court Objecting to the Magistrate Judge Recommendation. The plaintiff submit the following in support:

The plaintiff is Confused, because when this Hon. Judge "William" his recommendation, I thought he was going to serve the Defendant with a copy of the Complaint, because the plaintiff did not find out until June 6, 2006, that the victim of this case never filed an Criminal Complaint against him. See Exhibit A from the Objection filed on June 7, 2007. Because the plaintiff is arguing his negligence act constitutes fraud, the statute of limitation on fraud does not started until it is discovered. This Complaint is within the one years limitation. See Title 6-2-3 Code of Ala. 1975,

The plaintiff put forth an diligence effort in trying

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To ~~out~~ find out if he had an Document, under his Case NO: ~~00~~99-01492, but the Montg. Police Dept. said he will have to have an Subpoena request, issue by the Court. See Exhibit A.

The plaintiff try to diligence found out this, because was not because it was both beyond his control and was unavoidable with diligence. The effort he made was stop by the Montg. Police Dept. See Exhibit A. Therefore this is an extraordinary Circumstances that the "equitably tolled" may be apply. See *Sandvik vs. U.S.*, 177 F.3d 1269-1271 (11<sup>th</sup> Cir 1999); *Steed vs. Head* 219 F.3d 1298-1300 (11<sup>th</sup> Cir. 2000); *Knight vs. Schofield* 292 F.3d 709, 711 (11<sup>th</sup> Cir 2002).

This is an truly extraordinary Circumstances, because if the victim of a Crime did not file Charges an Officer can not go and file them. The Defendant acted cost the plaintiff 8 years of his life. The plaintiff diligence in attempting to see whether the Defendant had an Complaint, before arresting him, because he was unable to get this until 6-06-06. See *Drew vs. Dept. of Corr.* 297 F.3d 1278, 1286 (11<sup>th</sup> Cir 2002); *Arce vs. Garcia* 434 F.3d 1254, 1261 (11<sup>th</sup> Cir 2006).

## The Challenge to Plaintiff's Robbery Conviction

The plaintiff argues that the U.S. has held

The Complaint by a Sheriff is insufficient to support a Magistrate's finding of probable cause for an issuance of an arrest warrant. Because the Complaint consists of nothing more than the Sheriff's conclusion that the individuals named therein perpetrated the offense described in the Complaint. Because the Sheriff Affidavit & Complaint was only "bare-bones" his (Whiteley) was illegal arrested, tried, convicted, sentenced. In the plaintiff's case there was no Criminal Complaint, only an Affidavit and warrant of arrest, because the victim said he could not say who the robber was, therefore, ~~his~~ his sentence and conviction is illegal. See Whiteley vs. Warden of Kentucky, 306.

Wherefore, The plaintiff prays that this Honorable Court will set aside its recommendation, because try to find out any information, but could not until 6-6-06.

### Conclusion

Boyle prays that this recommendation will be set aside, because did not know he did have a Criminal Complaint until 6-6-06, ~~that~~ even though he put forth an effort.

## Relief Sought

The plaintiff, pray that the Court order entered on 6-11-2007, will be set aside and serving the Defendant with a copy of the Complaint

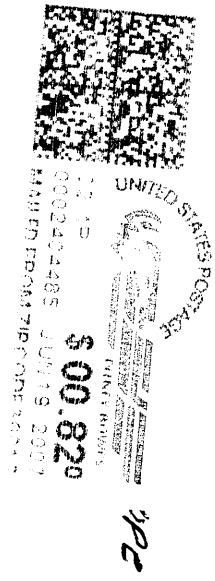
## Certificate of Service

I hereby certify I have served a copy of the foregoing upon the Middle District, by placing it into Kershling Corr. Fac. Mail Box June 14, 2007.  
Cecilia Burr

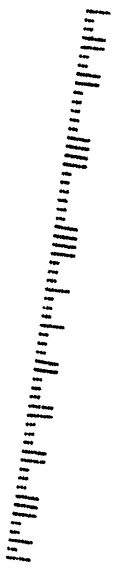
page 4

*Anthony Bold #20721 B-1-104*  
EASTERLING CORRECTIONAL FACILITY  
200 WALLACE DRIVE  
CLIO, ALABAMA 36017

This correspondence is forwarded from  
in Alabama State Prison. The contents have  
not been evaluated, and the Alabama Department  
of Corrections is not responsible for the substance  
or content of the enclosed communication. "Substance - 11 B007



*United States District Court*  
*P.O. Box 711*  
*Montgomery, AL*  
*36101*



IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
Courtney Boyd #207921  
Plaintiff

VS.  
J. W. Solomon  
Defendant

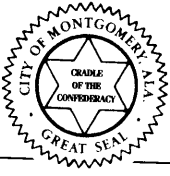
Case NO: 2:07-CV-403-MEF  
[WJ]

AFFIDAVIT  
I, Courtney Boyd, stated the following:

I have tried on some many time to get this information but, was not able to do so until 6-06-06. The Montg. Police Dept. said that I need a subpoena from the Court, see Exhibit A. The fact of the matter is that the Defendant fraudulently signed both Affidavit and Warrant of arrest, where there was never an Criminal Complaint by the victim. Boyd did not find this out until 6-06-06, when his trial Counsel said he send him everything. This said was filed only 11 months after that.

Pursuant to 28 U.S.C. Section 1746, I, Courtney Boyd do hereby sign this under the penalty of perjury that the foregoing is true and correct. Executed on 6-14-07.  
Courtney Boyd

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# City of Montgomery Alabama

**BOBBY BRIGHT**  
Mayor

**MONTGOMERY CITY COUNCIL**

ALICE D. REYNOLDS-Pres.  
JAMES A. NUCKLES-Pres. Pro tem  
WILLIE COOK  
TERANCE D. DAWSON  
CHARLES W. JINRIGHT

TRACY LARKIN  
B.J. (BEN) MCNEILL  
P.E. (PEP) PILGREEN  
CHARLES W. SMITH

October 8, 2002

Mr. Courtney Boyd  
AIS 208921  
Bibb Correctional Facility  
565 Bibb Lane  
Brent, Alabama 35034

Dear Mr. Boyd,

Please be advised that we will comply with your subpoena request (copy attached) when we receive a subpoena issued by the court.

If you have any questions, please call me at 344-241-2649.

Sincerely,

D. W. Warren, Captain  
Assistant Division Commander  
Records and Communications Division  
Montgomery Police Department

Enclosures

WDW/cd



**COL. JOHN H. WILSON**  
Chief of Police

P.O. DRAWER 159, MONTGOMERY, ALABAMA 36101-0159

(334) 241-2651  
FAX (334) 241-2333

Orig. followed Mandell  
p.m. 9-20-01

THE MONTGOMERY POLICE DEPT.

COURTNEY BOYD

VS.

CASE NO. CC-99 01492

MONTGOMERY POLICE DEPT.

*File*

MOTION FOR ALL DOCUMENT UNDER CASE NO. CC-9901492 BE FORWAED TO HIM.

COMES NOW, Courtney Boyd is filing this motion for all document' under case no. CC-99 01492 send to Mr. Courtney Boyd. The Circuit Clerk has informed me that I can get this form your department. I will be need these document before September 30.

Petitioner respectfully request that his motion be reviewed under the standards setforth in Haines v Kerner 404 U.S. 519, 30 L.ED 2d 652, 92 S.Ct 594. Whereby the United States Supreme Court Holds allegations of a pro se litigants to less stringnet standards than formal pleadings drafted by lawyers.

Petition avers that he is entitled to have these Document.

SWORN TO AND SUBSCRIBED BEFORE ME A NOTARY PUBLIC ON

THIS 19th DAY OF September 2001.

NOTARY PUBLIC

*Jeff C Burnett*

*Courtney Boyd*  
COURTNEY BOYD

8-11-2003

MY COMMISSION EXPIRES

*Exhibit 8A*